

105TH CONGRESS  
2D SESSION

# H. R. 3723

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 1998

Mr. COBLE introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “United States Patent  
5       and Trademark Office Reauthorization Act, Fiscal Year  
6       1999”.

7       **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

8       There are authorized to be made available for the  
9       payment of salaries and necessary expenses of the Patent  
10      and Trademark Office in fiscal year 1999, \$66,000,000

1 from fees collected in fiscal year 1998 and such fees as  
2 are collected in fiscal year 1999, pursuant to title 35,  
3 United States Code, and the Trademark Act of 1946 (15  
4 U.S.C. 1051 et seq.). Amounts made available pursuant  
5 to this section shall remain available until expended.

6 **SEC. 3. LEVEL OF FEES FOR PATENT SERVICES.**

7 (a) GENERAL PATENT FEES.—Section 41 of title 35,  
8 United States Code, is amended by striking subsection (a)  
9 and inserting the following:

10 “(a) The Commissioner shall charge the following  
11 fees:

12 “(1)(A) On filing each application for an origi-  
13 nal patent, except in design or plant cases, \$760.

14 “(B) In addition, on filing or on presentation at  
15 any other time, \$78 for each claim in independent  
16 form which is in excess of 3, \$18 for each claim  
17 (whether independent or dependent) which is in ex-  
18 cess of 20, and \$260 for each application containing  
19 a multiple dependent claim.

20 “(C) On filing each provisional application for  
21 an original patent, \$150.

22 “(2) For issuing each original or reissue patent,  
23 except in design or plant cases, \$1,210.

24 “(3) In design and plant cases—

1           “(A) on filing each design application,  
2           \$310;

3           “(B) on filing each plant application,  
4           \$480;

5           “(C) on issuing each design patent, \$430;  
6           and

7           “(D) on issuing each plant patent, \$580.

8           “(4)(A) On filing each application for the re-  
9           issue of a patent, \$760.

10          “(B) In addition, on filing or on presentation at  
11          any other time, \$78 for each claim in independent  
12          form which is in excess of the number of independ-  
13          ent claims of the original patent, and \$18 for each  
14          claim (whether independent or dependent) which is  
15          in excess of 20 and also in excess of the number of  
16          claims of the original patent.

17          “(5) On filing each disclaimer, \$110.

18          “(6)(A) On filing an appeal from the examiner  
19          to the Board of Patent Appeals and Interferences,  
20          \$300.

21          “(B) In addition, on filing a brief in support of  
22          the appeal, \$300, and on requesting an oral hearing  
23          in the appeal before the Board of Patent Appeals  
24          and Interferences, \$260.

1           “(7) On filing each petition for the revival of an  
2           unintentionally abandoned application for a patent  
3           or for the unintentionally delayed payment of the fee  
4           for issuing each patent, \$1,210, unless the petition  
5           is filed under section 133 or 151 of this title, in  
6           which case the fee shall be \$110.

7           “(8) For petitions for 1-month extensions of  
8           time to take actions required by the Commissioner  
9           in an application—

10                   “(A) on filing a first petition, \$110;

11                   “(B) on filing a second petition, \$270; and

12                   “(C) on filing a third petition or subse-  
13           quent petition, \$490.

14           “(9) Basic national fee for an international ap-  
15           plication where the Patent and Trademark Office  
16           was the International Preliminary Examining Au-  
17           thority and the International Searching Authority,  
18           \$670.

19           “(10) Basic national fee for an international  
20           application where the Patent and Trademark Office  
21           was the International Searching Authority but not  
22           the International Preliminary Examining Authority,  
23           \$760.

24           “(11) Basic national fee for an international  
25           application where the Patent and Trademark Office

1 was neither the International Searching Authority  
2 nor the International Preliminary Examining Au-  
3 thority, \$970.

4 “(12) Basic national fee for an international  
5 application where the international preliminary ex-  
6 amination fee has been paid to the Patent and  
7 Trademark Office, and the international preliminary  
8 examination report states that the provisions of Arti-  
9 cle 33 (2), (3), and (4) of the Patent Cooperation  
10 Treaty have been satisfied for all claims in the appli-  
11 cation entering the national stage, \$96.

12 “(13) For filing or later presentation of each  
13 independent claim in the national stage of an inter-  
14 national application in excess of 3, \$78.

15 “(14) For filing or later presentation of each  
16 claim (whether independent or dependent) in a na-  
17 tional stage of an international application in excess  
18 of 20, \$18.

19 “(15) For each national stage of an inter-  
20 national application containing a multiple dependent  
21 claim, \$260.

22 For the purpose of computing fees, a multiple dependent  
23 claim referred to in section 112 of this title or any claim  
24 depending therefrom shall be considered as separate de-  
25 pendent claims in accordance with the number of claims

1 to which reference is made. Errors in payment of the addi-  
2 tional fees may be rectified in accordance with regulations  
3 of the Commissioner.”.

4 (b) PATENT MAINTENANCE FEES.—Section 41 of  
5 title 35, United States Code, is amended by striking sub-  
6 section (b) and inserting the following:

7 “(b) The Commissioner shall charge the following  
8 fees for maintaining in force all patents based on applica-  
9 tions filed on or after December 12, 1980:

10 “(1) 3 years and 6 months after grant, \$940.

11 “(2) 7 years and 6 months after grant, \$1,900.

12 “(3) 11 years and 6 months after grant,  
13 \$2,910.

14 Unless payment of the applicable maintenance fee is re-  
15 ceived in the Patent and Trademark Office on or before  
16 the date the fee is due or within a grace period of 6  
17 months thereafter, the patent will expire as of the end of  
18 such grace period. The Commissioner may require the  
19 payment of a surcharge as a condition of accepting within  
20 such 6-month grace period the payment of an applicable  
21 maintenance fee. No fee may be established for maintain-  
22 ing a design or plant patent in force.”.

1 **SEC. 4. AUTHORIZATION OF COLLECTION AND EXPENDI-**  
2 **TURE.**

3       Section 42(c) of title 35, United States Code, is  
4 amended by striking the first sentence and inserting the  
5 following: “To the extent and in the amounts provided in  
6 advance in appropriations Acts, fees authorized in this  
7 title or any other Act to be charged or established by the  
8 Commissioner shall be collected and shall be available to  
9 the Commissioner to carry out the activities of the Patent  
10 and Trademark Office.”.

11 **SEC. 5. EFFECTIVE DATE.**

12       This Act and the amendments made by this Act shall  
13 take effect on October 1, 1998.

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